

Adopted	Rejected
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COMMITTEE REPORT

YES:	7
NO:	0

MR. SPEAKER:

*Your Committee on Utilities and Energy, to which was referred Senate Bill 353, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill **be amended** as follows:*

- 1 Page 5, line 37, strike "may be increased".
- 2 Page 7, between lines 5 and 6, begin a new paragraph and insert:
- 3 "SECTION 10. IC 6-3.1-29-4.5 IS ADDED TO THE INDIANA
- 4 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
- 5 [EFFECTIVE JANUARY 1, 2006 (RETROACTIVE)]: **Sec. 4.5. As**
- 6 **used in this chapter, "fluidized bed combustion technology" means**
- 7 **a technology that involves the combustion of fuel in connection with**
- 8 **a bed of inert material, such as limestone or dolomite, which is held**
- 9 **in a fluid like state by the means of air or other gasses being passed**
- 10 **through the materials.**
- 11 SECTION 11. IC 6-3.1-29-10, AS ADDED BY P.L.191-2005,
- 12 SECTION 15, IS AMENDED TO READ AS FOLLOWS
- 13 [EFFECTIVE JANUARY 1, 2006 (RETROACTIVE)]: **Sec. 10. As**
- 14 used in this chapter, "qualified investment" means a taxpayer's
- 15 expenditures for:

(1) all real and tangible personal property incorporated in and used as part of an integrated coal gasification powerplant **or a fluidized bed combustion technology**; and

(2) transmission equipment and other real and personal property located at the site of an integrated coal gasification powerplant **or a fluidized bed combustion technology** that is employed specifically to serve the integrated coal gasification powerplant **or fluidized bed combustion technology**.

SECTION 12. IC 6-3.1-29-14, AS ADDED BY P.L.191-2005, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006 (RETROACTIVE)]: Sec. 14. (a) A taxpayer that:

(1) is awarded a tax credit under this chapter by the corporation; and

(2) complies with the conditions set forth in this chapter and the agreement entered into by the corporation and the taxpayer under this chapter;

is entitled to a credit against the taxpayer's state tax liability for a taxable year in which the taxpayer places into service an integrated coal gasification powerplant **or a fluidized bed combustion technology** and for the taxable years provided in section 16 of this chapter.

(b) A tax credit awarded under this chapter must be applied against the taxpayer's state tax liability in the following order:

(1) Against the taxpayer's liability incurred under IC 6-3-1 through IC 6-3-7 (the adjusted gross income tax).

(2) Against the taxpayer's liability incurred under IC 6-5.5 (the financial institutions tax).

(3) Against the taxpayer's liability incurred under IC 27-1-18-2 (the insurance premiums tax).

(4) Against the taxpayer's liability incurred under IC 6-2.3 (the utility receipts tax).

SECTION 13. IC 6-3.1-29-15, AS ADDED BY P.L.191-2005, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006 (RETROACTIVE)]: Sec. 15. (a) Subject to section 16 of this chapter, the amount of the credit to which a taxpayer is entitled **for a qualified investment in an integrated coal gasification powerplant** is equal to the sum of the following:

(1) Ten percent (10%) of the taxpayer's qualified investment for

the first five hundred million dollars (\$500,000,000) invested.

(2) Five percent (5%) of the amount of the taxpayer's qualified investment that exceeds five hundred million dollars (\$500,000,000) **only if the facility is dedicated primarily to serving Indiana retail electric utility consumers.**

(b) Subject to section 16 of this chapter, the amount of the credit to which a taxpayer is entitled for a qualified investment in a fluidized bed combustion technology is equal to the sum of the following:

(1) Seven percent (7%) of the taxpayer's qualified investment for the first five hundred million dollars (\$500,000,000) invested.

(2) Three percent (3%) of the amount of the taxpayer's qualified investment that exceeds five hundred million dollars (\$500,000,000).

SECTION 14. IC 6-3.1-29-16, AS ADDED BY P.L.191-2005, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006 (RETROACTIVE)]: Sec. 16. (a) A credit awarded under section 15 of this chapter must be taken in ten (10) annual installments, beginning with the year in which the taxpayer places into service an integrated coal gasification powerplant **or a fluidized bed combustion technology.**

(b) Subject to section 20 of this chapter, the amount of an annual installment of the credit awarded under section 15 of this chapter is equal to the amount determined in the last of the following STEPS:

STEP ONE: Determine the lesser of:

(A) the credit amount determined under section 15 of this chapter, divided by ten (10); or

(B) the greater of:

(i) the taxpayer's total state tax liability for the taxable year, multiplied by twenty-five percent (25%); or

(ii) the taxpayer's liability for the utility receipts tax imposed under IC 6-2.3 for the taxable year.

STEP TWO: Multiply the STEP ONE amount by the percentage of Indiana coal used in the taxpayer's integrated coal gasification powerplant **or fluidized bed combustion technology** in the taxable year for which the annual installment of the credit is allowed.

(c) If the credit allowed by this chapter is available to a member of an affiliated group of corporations filing a consolidated return under IC 6-2.3-6-5 or IC 6-3-4-14, the credit shall be applied against the state tax liability of the affiliated group.

SECTION 15. IC 6-3.1-29-17, AS ADDED BY P.L.191-2005, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006 (RETROACTIVE)]: Sec. 17. A person that proposes to place a new integrated coal gasification powerplant **or fluidized bed combustion technology** into service may apply to the corporation before the taxpayer makes the qualified investment to enter into an agreement for a tax credit under this chapter. The corporation shall prescribe the form of the application.

SECTION 16. IC 6-3.1-29-19, AS ADDED BY P.L.191-2005, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006 (RETROACTIVE)]: Sec. 19. (a) The corporation shall enter into an agreement with an applicant that is awarded a credit under this chapter. The agreement must include all the following:

(1) A detailed description of the project that is the subject of the agreement.

(2) The first taxable year for which the credit may be claimed.

(3) The maximum tax credit amount that will be allowed for each taxable year.

(4) A requirement that the taxpayer shall maintain operations at the project location for at least ten (10) years during the term that the tax credit is available.

(5) **If the facility is an integrated coal gasification powerplant**, a requirement that the taxpayer shall pay an average wage to its employees at the integrated coal gasification powerplant, other than highly compensated employees, in each taxable year that a tax credit is available, that equals at least one hundred twenty-five percent (125%) of the average county wage in the county in which the integrated coal gasification powerplant is located.

(6) **For a project involving a qualified investment in a coal gasification powerplant**, a requirement that the taxpayer will maintain at the location where the qualified investment is made, during the term of the tax credit, a total payroll that is at least equal to the payroll that existed on the date that the taxpayer

placed the integrated coal gasification powerplant into service.

(7) A requirement that:

(A) one hundred percent (100%) of the coal used:

(i) at the integrated coal gasification powerplant, for a project involving a qualified investment in an integrated coal gasification powerplant; or

(ii) as fuel in a fluidized bed combustion unit, in a project involving a qualified investment in a fluidized bed combustion technology, if the unit is dedicated primarily to serving Indiana retail electric utility consumers;

must be Indiana coal; or

(B) seventy-five percent (75%) of the coal used as fuel in a fluidized bed combustion unit must be Indiana coal, in a project involving a qualified investment in a fluidized bed combustion technology, if the unit is not dedicated primarily to serving Indiana retail electric utility consumers. the taxpayer shall use Indiana coal at the taxpayer's integrated coal gasification powerplant.

(8) A requirement that the taxpayer obtain from the commission a determination under IC 8-1-8.5-2 that public convenience and necessity require, or will require:

(A) the construction of the taxpayer's integrated coal gasification powerplant, in the case of a project involving a qualified investment in an integrated coal gasification powerplant; or

(B) the installation of the taxpayer's fluidized bed combustion unit, in the case of a project involving a qualified investment in a fluidized bed combustion technology.

(b) A taxpayer must comply with the terms of the agreement described in subsection (a) to receive an annual installment of the tax credit awarded under this chapter. The corporation shall annually determine whether the taxpayer is in compliance with the agreement. If the corporation determines that the taxpayer is in compliance, the corporation shall issue a certificate of compliance to the taxpayer.

SECTION 17. IC 6-3.1-29-20, AS ADDED BY P.L.191-2005, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006 (RETROACTIVE)]: Sec. 20. (a)

This section applies if a qualified investment is made by a pass through entity or by taxpayers who are co-owners of an integrated coal gasification powerplant **or a fluidized bed combustion technology**.

(b) If the credit allowed by this chapter for a taxable year is greater than the state tax liability of the pass through entity against which the tax credit may be applied, a shareholder, partner, or member of the pass through entity is entitled to a tax credit equal to:

(1) the tax credit determined for the pass through entity for the taxable year in excess of the pass through entity's state tax liability for the taxable year; multiplied by

(2) in the case of a pass through entity described in:

(i) section 9(1), 9(2), 9(3), or 9(4) of this chapter, the percentage of the pass through entity's distributive income to which the shareholder, partner, or member is entitled; and

(ii) section 9(5) or 9(6) of this chapter, the relative percentage of the corporation's patronage dividends allocable to the member for the taxable year.

(c) If an integrated coal gasification powerplant **or a fluidized bed combustion technology** is co-owned by two (2) or more taxpayers, the amount of the credit that may be allowed to a co-owner in a taxable year is equal to:

(1) the tax credit determined under sections 15 and 16 of this chapter with respect to the total qualified investment in the integrated coal gasification powerplant **or fluidized bed combustion technology**; multiplied by

(2) the co-owner's percentage of ownership in the integrated coal gasification powerplant **or fluidized bed combustion technology**.

(d) The amount of an annual installment of the credit allowed to a shareholder, partner, or member of a pass through entity or a co-owner shall be determined under section 16 of this chapter modified as follows:

(1) Section 16(b) STEP ONE (A) of this chapter shall be based on the percentage of the credit allowed to the shareholder, partner, member, or co-owner under this section.

(2) Section 16(b) STEP ONE (B) of this chapter shall be based on the:

(A) state tax liability; or

(B) utilities receipts tax liability;

- 1 of the shareholder, partner, member, or co-owner."
- 2 Renumber all SECTIONS consecutively.
(Reference is to SB 353 as printed January 27, 2006.)

and when so amended that said bill do pass.

Representative Lutz J